

that this designation was an administrative error resulting from licensing data concerning RGV's current service. Further, we believe that limiting the allotment to NCE use would be inconsistent with our DTV service replication policy of providing broadcasters with allotments capable of supporting equivalent service. Because RGV now operates on a commercial channel, we believe that providing it with an allotment that is limited to NCE use would conflict with this policy. Accordingly, we are amending the DTV Table to remove the NCE designation from DTV channel 38 in Harlingen.

293. Sangre de Cristo Communications, Inc. Petition and Supplemental Filing. Sangre de Cristo Communications, Inc. (SCC), the licensee of KOAA-TV, channel 5, in Pueblo, Colorado, requests reconsideration of the use of KOAA-TV's existing antenna site for its DTV assignment. It states that it has identified a new site at the Cheyenne Mountain antenna farm that serves the Pueblo/Colorado Springs communities and asks that this location be used for its assigned DTV channel 27 rather than its existing transmitter location. In its supplemental filing, SCC asks us to assign DTV channel 42 to KOAA-TV using the Cheyenne Mountain coordinates: 38° 44' 43.3" N and 104° 51' 41.3" W. SCC states that this change would satisfy the DTV spacing and interference criteria and would allow KOAA-TV to maximize its service to the Pueblo and Colorado Springs market.

294. AK Media Group, Inc. (AK Media) opposes the requests of Sangre de Cristo's (SCC) and Cordillera Communications, Inc. (Cordillera) that it move its transmitter site to Cheyenne Mountain. AK Media argues that these requests are the latest in a long series of attempts by the owners of KOAA-TV to move the station from a site on Baculite Mesa near Pueblo, KOAA-TV's community of license, to a site on Cheyenne Mountain near Colorado Springs. It argues such a move would be contrary to our requirements regarding a station's continuing obligation to maintain service to its community and viewing audience. It states that the requested change would move KOAA-TV's transmitter site over 30 miles from the station's existing site, more than 10 times the 3-mile limit permitted for DTV transmitter moves. AK Media submits that SCC and Cordillera have improperly used their petitions for reconsideration to attempt to obtain Commission consent to a modification of KOAA-TV's facilities rather than filing a Form 301 application to modify facilities. AK Media submits that it is reasonable to assume that a direct consequence of the attempt by SCC and Cordillera to achieve an over 30-mile change in KOAA-TV's DTV transmitter site would be a significant loss of primary off-air service to a large number of KOAA-TV's current viewers, and that such losses are *prima facie* not in the public interest.

295. We have reviewed SCC's request to modify the DTV allotment for its station KOAA-TV from channel 27 to channel 42. We find that this change can be made without impacting or causing additional interference to other stations. Accordingly, we are granting SCC's request in this regard and are modifying the DTV allotment for KOAA-TV from channel 27 to channel 42. With regard to SCC's request to move its transmitter site, as indicated above, we find that requests to change transmitter sites should be dealt with under the DTV allotment modification procedures provided for in the rules and not as a matter for reconsideration.

Accordingly, we are denying SCC's petition in this regard.

296. Scripps Howard Broadcasting Company Petition. Scripps Howard Broadcasting Company (SHBC), the licensee of KNXV-TV, channel 15 in Phoenix, Arizona, is concerned that its DTV channel 14 allotment could cause interference to adjacent channel land mobile services. It states that within 35 miles of the KNXV-TV transmitter there are more than 200 land mobile licensees operating on frequencies between 469.515 and 470 MHz. SHBC further expresses concern that these land mobile operations could also interfere with reception of KNXV-TV's DTV service. SHBC submits that based on the list of other available channels provided by MSTV, it appears that channel 56 would provide a suitable alternative for KNXV-TV's DTV service. It therefore requests that we change KNXV-TV's DTV allotment to channel 56 or another channel other than channel 14 as we may determine appropriate. SHBC did not submit a supplemental filing.

297. We have reviewed SHBC's request and find that channel 56 may be substituted for channel 14 without adverse impact to other stations. We therefore grant SHBC's request and modify the DTV allotment for station KNXV-TV from channel 14 to 56.

298. Shenandoah Valley Educational Television Corporation Petition and Supplemental Filings. Shenandoah Valley Educational Television Corporation (Shenandoah) is the licensee of full power public station WVPT-TV, channel 51, Staunton, Virginia, which received DTV channel 19.¹²³ Shenandoah currently operates a number of translator stations, including W19BB in Charlottesville, Virginia, which operates on channel 19 and is 75.7 km away from WVPT-TV. Shenandoah states that channel 11 would be a viable alternative to channel 19 for WVPT that would not hinder its provision of programming to Charlottesville and greater Albemarle County. In its supplemental filings, Shenandoah states that use of channel 19 would not affect any other full or low power operations. Fox supports Shenandoah's request for a DTV allotment other than channel 19 for WVPT-TV in Staunton because such a modification would eliminate any potential for co-channel interference between WVPT-TV's and its requested use of channel 19 for WTTG-TV.¹²⁴

299. Our analysis indicates that the change Shenandoah requests would not impact or cause additional interference to other broadcast operations. We therefore grant Shenandoah's

¹²³ Jefferson-Pilot Communications Company (Jefferson-Pilot) initially opposed Shenandoah's request that the DTV channel for Shenandoah's station WVPT-TV be changed from channel 19 to channel 11 because Shenandoah's proposed change would have conflicted with its own petition requesting DTV channel 11 for its station WWBT-TV in Richmond, Virginia. Jefferson-Pilot subsequently withdrew its request for channel 11.

¹²⁴ Fox, in its comments, expresses concern that there will be interference problems between its WTVR-TV, channel 6 in Richmond, Virginia, and the channel 6 DTV service of Fox's WTTG-TV in Washington, DC. It agrees with Media General that another DTV allotment must be found for WTTG-TV. Fox states that the most promising option is channel 19, although that allotment would be slightly short spaced to land mobile operations in Philadelphia.

request to modify the DTV allotment for its WVPT-TV from channel 19 to channel 11.

300. Telemundo Group, Inc. Petition. Telemundo Group, Inc. (Telemundo), the licensee of KSTS-TV, channel 48 in San Jose, California and other full service and low power television stations, requests that we change the reference coordinates for the DTV channel 49 allotment provided for KSTS-TV to coincide with those specified in an application to relocate the KSTS-TV transmitter to a new site on Mt. Allison at 37° 29' 57" N and 121° 52' 16" W. Telemundo states that this application was filed on July 11, 1996, in anticipation of the termination of its lease for the existing KSTS-TV tower. Telemundo submits that the entity that controls the existing tower site, the Alameda Park District, has informed Telemundo that it cannot renew the station's lease beyond December 31, 1998 and that the tower will be torn down after that time. Thus, Telemundo states that there is no chance that the station will be able to continue to operate from its existing tower site. It argues that its pending modification application to relocate KSTS-TV's facilities atop Mt. Allison should have been considered in the DTV allotment process. It submits that ignoring this pending modification would have serious repercussions for KSTS-TV, as that station would have a DTV allotment where it has no tower. Telemundo also states that information from MSTV indicates that alternative channels are available that could be used to resolve any interference problems. Telemundo states that, without OET Bulletin No. 69, it has been unable to conduct an analysis of other channels that may be available. It did not submit a supplemental filing.

301. As stated above, it is our general service replication policy not to take into account pending modification applications in the development of DTV allotments. This is to ensure that DTV operations, to the extent possible, are capable of fully replicating existing analog television operations and the public's expectations of television service are preserved. In the case of KSTS-TV, we note that the new site on Mt. Allison is less than 2 km from its existing location. Under the rules, we permit stations to move their DTV facilities up to 5 km without any additional showing.¹²⁵ Accordingly, Telemundo may relocate its DTV operations to this site regardless of any final Commission action with respect to its pending application. We therefore find that there is no need to modify Telemundo's DTV allocation, as requested, to operate from a new location on Mt. Allison at 37° 29' 57" N and 121° 52' 16" W. This action does not, however, predetermine any future action we may take with regard to Telemundo's pending request to modify its NTSC transmitter site.

302. The University of Houston System Petition and Supplemental Filings. The University of Houston System (UHS) requests that the DTV allotment provided for its noncommercial educational station KUHT-TV in Houston, Texas, be changed from channel 53 to channel 9. KUHT-TV currently provides NTSC service on channel 8. UHS states that requiring KUHT-TV to use channel 53 for DTV service, rather than channel 9 as proposed in the Sixth Further Notice, would result in substantial and unnecessary hardship for the station. UHS

¹²⁵ See Section 73.622(d)(1) of the rules, 47 CFR 73.622(d)(1).

notes that there is a concern that operation of KUHT's DTV service on channel 9 could possibly result in interference to the NTSC service of KTRE-TV operating on channel 9 at Lufkin, Texas, 215 km away. UHS states that it would accept limitations in its power during the transition, to avoid any possibility of interference to KTRE-TV. However, it believes that operation of KUHT-TV's DTV service on channel 9 at the 20.9 kW power level proposed by the Broadcasters' Caucus would be possible without interference to KTRE-TV or any other NTSC or DTV stations. In a supplement to its petition, UHS submits that an engineering study indicates that KUHT-TV could operate on channel 9 with ERP up to 8.4 kW from the station's existing transmitter site and with its existing antenna. It states that, in the engineer's estimation, the lower power is required to reduce potential interference to co-channel NTSC station KTRE-TV in Lufkin, which is located 215.1 km from KUHT-TV's transmitter site. UHS submits that it has obtained the tentative agreement of Civic Communication Corp. (Civic), the licensee of KTRE-TV, to KUHT-TV's use of channel 9 for DTV service, with ERP up to a maximum of 8.4 kW. UHS states that it has committed to resolve interference problems that might result to KTRE-TV, including potential power reductions to 1.3 kW. On June 16, 1997, UHS submitted a letter from Mr. Errol R. Kapellusch, Senior Vice President and General Manager of Civic License Holding Company, the licensee of KTRE-TV, consenting to operation of KUHT's DTV service on channel 9, based on a maximum power of 8.4 kW. Mr. Kapellusch further conditions his consent on KUHT-TV's agreement that in the event such operations actually cause interference within KTRE-TV's Grade B contour, KUHT-TV will take whatever steps are necessary, including power reductions to as low as 1.3 kW, to resolve them. He further agrees to KUHT-TV's plan to convert the station's DTV service to its existing channel 8 at the end of the transition, without concerns for either station that would arise out of a continuing short-spacing.

303. Throughout this proceeding we have recognized that the implementation of DTV will be a dynamic process and that mechanisms would be needed to accommodate changes that will occur. In the Sixth Report and Order, we stated our intent to provide broadcasters with the flexibility to develop alternative allotment approaches and adopted an approach to accommodate voluntary industry coordination of DTV allotment and facility modifications.¹²⁶ We find that the change UHS requests is consistent with this approach and would be in the public interest. We believe that making this change, as requested by UHS and agreed to by Civic, would provide its noncommercial station with an easier and more economical transition to DTV service. We further find that such a change would be neutral in its impact on low power operations.¹²⁷ Accordingly, we are amending the DTV Table of Allotments to permit station KUHT-TV to operate on DTV channel 9 with ERP of up to 8.4 kW.

304. WHNS License Partnership Petition. WHNS License Partnership (WHNS), the licensee of WHNS-TV, channel 21 in Asheville, North Carolina, requests that we reconsider the

¹²⁶ See Sixth Report and Order at paras. 172 and 182.

¹²⁷ In this regard, we estimate that this change may impact one low power station but would eliminate the impact on another low power station.

allotment of DTV channel 21 for WCCB-TV in Charlotte, North Carolina. WHNS argues that operation of WCCB-TV's DTV service on channel 21 is likely to cause interference to WHNS-TV's NTSC service on channel 21. It further submits that, if WCCB-TV remains on channel 21 after the transition, WHNS-TV would be precluded from moving back to its NTSC channel for DTV operation. WHNS requests that we assign WCCB-TV a different DTV channel and submits that we could do so without undermining the principles underlying the DTV Table. WHNS did not submit a supplemental filing.

305. As discussed above, we are making a number of allotment changes to address potential DTV-to-DTV adjacent channel interference. We have changed the DTV allotment for NCBP's WCCB-TV from channel 21 to channel 27 in order to address potential adjacent channel DTV-to-DTV interference. Therefore, WHNS's request that we modify the DTV allotment of WCCB-TV to protect WHNS-TV's NTSC service on channel 21 is now moot.

306. Wichita Communications Petition. Wichita Communications (WC), the licensee of KWCV-TV, channel 33, Wichita, Kansas, submits that the reference coordinates for the transmitter site of the channel 34 DTV allotment provided for KWCV-TV in the Sixth Report and Order are incorrect. It states that the coordinates are for the site of its former transmitter site and that KWCV's transmitter site was relocated to 37° 47' 47" N and 97° 31' 59" W pursuant to a decision issued March 21, 1997. WC asks us to change the reference site for DTV channel 34 at Wichita to the site currently authorized for KWCV-TV's NTSC operation.

307. We agree with WC that our database was in error with regard to the coordinates of the transmitter site for its station and have corrected this error, as requested. Further, in order to address potential DTV-to-DTV adjacent channel interference, we have also changed the DTV allotment for KWCV-TV from channel 34 to channel 31.

308. WTNH Broadcasting, Inc., K-W TV, Inc., Post-Newsweek Stations, Connecticut, Inc., and Tribune Broadcasting Company Petition and Supplemental Filing. WTNH Broadcasting, Inc., licensee of WTNH-TV in New Haven, Connecticut, K-W TV, Inc., licensee of WBNE-TV in New Haven, Connecticut, Post-Newsweek Stations, Connecticut, Inc., licensee of WFSB-TV in Hartford, Connecticut, and Tribune Broadcasting Company, licensee of WPIX-TV in New York, New York (NY-CT Petitioners) request that we modify the DTV allotments for the Hartford-New Haven, Connecticut market. They submit that changes are warranted to avoid the unnecessary and destructive loss of free, off-the-air television service in that market and the adjacent New York market. NY-CT Petitioners submit that their consulting engineers have examined options for resolving these problems but have not found an answer, largely because of the daisy-chain effects of proposed channel changes in the northeast corridor and the lack of availability of OET Bulletin No. 69. They state that, after examining various possible localized solutions to the problems they have identified, their consulting engineers concur with MSTV's conclusion that a regional solution is needed. They submit that they will cooperate with MSTV to develop such a solution. NY-CT Petitioners urge us to reconsider the DTV Table for the northeast corridor and to provide MSTV and the industry an opportunity to develop alternatives

for the region.

309. As indicated above, the DTV allotments are the result of balancing a number of different factors, including full accommodation, service replication, and spectrum recovery. We find that the allotments for the New York/Connecticut region are consistent with our DTV policies and goals. While we recognize that this area is particularly congested and that a number of the DTV allotments are not ideal, we do not find that the many changes suggested by MSTV in its *ex parte* filing for this region would significantly improve the situation for all broadcasters. Rather, in many cases, the improvements in service and replication for some broadcasters come at the expense of increased interference or decreases in service and replication for other broadcasters. In addition, MSTV's use of more out-of-core channels and, in particular, more 60-69 channels has other consequences for both broadcasters and new service providers. Accordingly, with one exception, we continue to find that the channels allotted to stations in this area of the country are appropriate and that only targeted and limited changes are needed to address the new DTV-to-DTV adjacent channel data. In this regard, we are changing the DTV allotment of Post-Newsweek's WFSB-TV from channel 11 to channel 33 to address potential DTV-to-DTV adjacent channel interference.

310. Young Broadcasting of Sioux Falls, Inc. Petition. Young Broadcasting of Sioux Falls, Inc. (Young) is the licensee of television station, KELO-TV in Sioux Falls, South Dakota. Young submits that the DTV channel 32 allotment assigned to KELO-TV is based on the station's auxiliary transmitter facilities, rather than on its main transmitter facilities. Young points out that the transmitter site geographic coordinates, antenna height above average terrain (HAAT), and effective radiated power (ERP) used in establishing a matching DTV allotment for KELO-TV are the same as those indicated on an application to modify the station's auxiliary transmitter site and facilities. It asks that we correct this error. KELO-TV's existing main transmitter site is located at 43° 31' 07" N and 96° 32' 05" W. Young submits that, at a minimum, we should provide KELO-TV with the same antenna height and the same or nearly identical power as KSFY-TV, which is located on the same tower as KELO-TV. It also requests that we assign KELO-TV a DTV channel that is adjacent to the DTV channel 29 allotment provided for KSFY-TV, as proposed in the Sixth Further Notice. Young states that KELO-TV would thus be able to combine its DTV signal with KSFY's on one antenna, in the same manner as the stations provide NTSC service.

311. We have reviewed our records and have determined that an error was, in fact, present in the database entry for KELO-TV. As indicated by Young, the data used in establishing a matching DTV allotment for this station are those indicated on an application to modify the station's auxiliary transmitter and antenna facilities. To correct this error, we are revising the technical facilities for KELO-TV's DTV channel to reflect the correct transmitter site, HAAT, and replication power.¹²⁸ Operation of KELO-TV's DTV service on channel 32 with

¹²⁸ Previously, in a letter to Young, our staff recognized this error and advised Young that we would accept an application from KELO-TV to operate its DTV service on channel 32 in conformance with these technical facilities.

these corrected parameters will not result in additional interference to other full service analog or DTV stations. We are, however, denying Young's request to change its DTV allotment from channel 32 to channel 29. Our analysis indicates that use of channel 29 by KELO-TV would cause interference to other stations.

C. Requests for Changes by Low Power Interests

312. The following petitions for reconsideration were filed by low power interests seeking to change the DTV allotments of full power stations in order to protect their low power operations. Many of these petitions rely on the MSTV/NAB information on channel availability and either acknowledge that the alternative allotments presented would interfere with other stations or that the proposed frequencies have not been thoroughly analyzed. Many of the oppositions emphasized that protection of secondary LPTV operations cannot outweigh the public benefits of prompt initiation of DTV service by full power stations and suggested that the petitioners identify alternative channels for their own low power operations. Below, we briefly summarize these petitions and oppositions and then discuss our decisions. We next discuss petitions from low power interests that raise certain additional issues. As we have previously explained, in view of their secondary status, we are generally not making changes to protect low power services.

313. Alaska Broadcast Television Inc. Petition. Alaska Broadcast Television Inc. (ABT) is the licensee of an LPTV station on channel 20 in Anchorage, Alaska. To protect its station's operation, it requests that KTBV-TV be given DTV channel 36 instead of DTV channel 20 as assigned.

314. Capitol Television Corporation Petition. Capitol Television Corporation (CTC) is the permittee of LPTV station, W44BP, channel 44, Petersburg, Virginia. CTC requests that the allotment of DTV channel 44 to WCVW-TV in Richmond be changed to DTV channel 28. Central Virginia Educational Telecommunications Corporation (CVETC), licensee of WCVW-TV in Richmond, Virginia, opposed Capitol's request.

315. Entravision Holdings, LLC Petition.¹²⁹ Entravision Holdings, LLC, (Entravision) is the licensee of two full power television stations and a number of low power television stations. In its petition, Entravision expresses concern that its Spanish language LPTV stations K19BN in San Diego, California and KGHB-LP in Pueblo and Colorado Springs, Colorado will be displaced by DTV allotments. It argues that, in San Diego, instead of providing DTV channel 19 for KSWB-TV and DTV channel 18 for KUSI-TV, we could allot these stations two channels from 43, 47, 62, 63, 64 or 65; alternatively, we could reserve one of these channels for K19BN. Entravision asserts that, in Pueblo, there are over 40 channels that we could assign to KOAA-TV

¹²⁹ Entravision filed a "Joint Petition of Licensees" with Paxson Communications Corporation, Univision Communications, Inc., and others. Entravision's requests regarding its full power stations are addressed in the alphabetical section.

while allowing its KGHB-LP to remain on its current channel 27. Entravision submits that we should revise the DTV Table to either preserve co-channel or adjacent channel LPTV stations or reserve the allotments that are not needed for DTV for co-channel and adjacent channel displaced LPTV stations.

316. KUSI opposes Entravision's petition to the extent that it urges changing the allotment of DTV channel 18 to KUSI-TV at San Diego to any one of six channels between channel 43 and 65. Fox submits that allotting DTV channel 65 to either KSWB-TV or KUSI-TV to protect Entravision's LPTV station would result in interference to KTTV-TV's DTV operation on channel 65. Sangre de Cristo Communications, Inc. (SCC), licensee of KOAA-TV, NTSC channel 5 in Pueblo, opposes Entravision's proposed change for KOAA-TV.

317. First Cullman Broadcasting, Inc. Petition. First Cullman Broadcasting, Inc. (FCB), the licensee of low power television station W52BJ, channel 52 in Cullman, Alabama, requests that in Birmingham, Alabama we consider assigning DTV channel 12 to WVTM-TV and DTV channel 9 to WBIQ-TV, instead of channels 52 and 53, respectively. Cosmos opposes FCB's proposed change to its own WVTM-TV, predicting that such a change would result in considerable interference and a co-channel short-spacing of nearly 100 km.

318. Innovative Technologies, Inc. Petition. Innovative Technologies, Inc. (Innovative), the licensee of LPTV station K17CT, channel 17, in Las Vegas, Nevada, asks that we change the channel 17 DTV allotment provided for KTNV-TV, Las Vegas to avoid displacement of K17CT, as well as other channel 17 low power stations in Pahrump, Nevada, Mohave Valley, Arizona, Needles, California, Lake Havasu, Arizona, and Daggett, California. Innovative states that these channel 17 stations have been able to coexist due to the protective characteristics of the mountain ranges in the area.

319. Journal was assigned DTV channel 17 for its station KTNV-TV, channel 13 in Las Vegas, Nevada. Journal opposes Innovative's petition but notes that the Commission could address Innovative's concern by granting Journal's own petition, which seeks the allotment of channel 9 in lieu of channel 17 for KTNV-TV.¹³⁰ Journal argues that this result would clearly serve the public interest by minimizing the costs and environmental risks to KTNV-TV while preserving an existing LPTV operation on its present channel.

320. Landmark Arts, Inc. Petition. Landmark Arts, Inc. (Landmark Arts), the licensee of LPTV station, WHRT-LP, channel 27 in Murfreesboro, Tennessee, asserts that the allotment of DTV channel 27 to the licensee of channel 2 in Nashville, approximately 30 miles away from WHRT-LP, will displace its station and cause Murfreesboro to lose its only local programming. Landmark Arts states that, if we do not allot a different DTV channel to Nashville, we should afford WHRT-LP an early opportunity to move to another channel rather than requiring it to wait

¹³⁰ We address Journal's petition below in the alphabetical section.

for the Nashville station to apply for a construction permit. Landmark Arts states that its station provides 21 hours of locally-produced programming and recently gained access to the local cable system. It states that it has been granted a CP for a proposed major change, but that it would be financially imprudent to construct improved facilities if the station is to be displaced. It states that, at a minimum, we should allow WHRT-LP to change channels immediately prior to the expiration of its major change CP.

321. In its consolidated opposition,¹³¹ YBI states that the petitions filed by low power and translator interests propose massive reassignments of DTV channels for full service stations instead of finding alternative channels for their own subordinate service. YBI opposes Landmark Arts' request to reassign YBI's station WKRN-TV to an unspecified alternative DTV channel. While YBI believes that Landmark Arts' petition lacks adequate justification, it does not oppose permitting Landmark Arts to file an application to switch its Murfreesboro LPTV channel at an early stage. YBI observes that it may make sense to permit low power parties such as Landmark Arts to file applications proposing channel switches before full service stations file construction applications for DTV service.

322. Liberty Christian Center Petition. Liberty Christian Center (Liberty), the licensee of LPTV station, W57BS in Alton, Illinois, requests that we change the DTV channel 56 allotment for KMOV-TV in St. Louis, Missouri to channel 16. Liberty submits that KMOV-TV's transmitter site is only 27 miles from the W57BS transmitter site and will cause and receive interference from KMOV-TV's DTV operations. Liberty submits that the NAB/ MSTV study shows that DTV channel 16 could be allotted for KMOV-TV without disrupting any LPTV service or otherwise affecting the DTV Table. Liberty indicates that it has lacked access to the software necessary to make a detailed study of this proposed change or to calculate interference among and between DTV and NTSC facilities. It also states that the NAB/MSTV study indicates that channels other than 16 could be assigned to KMOV-TV without adverse impact on the DTV Table or on W57BS's continued use of channel 57.

323. Third Avenue Television, Inc. (Third Avenue), the licensee of KMOV-TV, channel 4 in St. Louis, Missouri, opposes Liberty's request to change KMOV-TV's DTV channel. Third Avenue states that its engineering study indicates that the proposed allotment of DTV channel 16 would cause substantial interference to two other full-power stations.

324. Montgomery Communications, Inc. Petition. Montgomery Communications, Inc. (Montgomery) is the licensee of four LPTV stations, which it describes as the exclusive source of Fox network programming for the Topeka ADI. Montgomery states that the allotment of channel 17 for DTV use by KAAS-TV in Salinas, Kansas will force its LPTV station on channel 17 in Emporia, Kansas to cease operation. It submits that at least two other channels within the proposed core spectrum of channels 7-51 (channels 46 and 50) could be allotted to KAAS-TV for

¹³¹ See Opposition of Young Broadcasting Inc. to Four Separate Petitions for Reconsideration filed July 18, 1997.

DTV without displacing its LPTV station or any other LPTV or translator operation. Clear Channel Television Licenses, Inc. (Clear Channel) opposes Montgomery's request that the DTV channel for its station KAAS-TV be changed.

325. Rapid Broadcasting Company Petition. Rapid Broadcasting Company (RBC) is the licensee of LPTV station KNBN-LP, channel 27 in Rapid City, South Dakota and the permittee of LPTV stations K27ED and K31DK, also in Rapid City. It argues that, because this area of the country is somewhat remote, alternative DTV allotments could avoid any potential interference with its LPTV operations. RBC requests that we make the following changes in the DTV allotments:

<u>Station</u>	<u>NTSC Chan.</u>	<u>DTV Chan.</u>	<u>New DTV Chan.</u>
KPSD-TV	13	24	44
KIVV-TV	5	26	59
KHSD-TV	11	27	62
KOTA-TV	3	22	49
KBHE-TV	9	23	50
KCLO-TV	15	16	53

RBC argues that, although several of these allotments would be outside the core spectrum, each station would have at least one channel within the core and could eventually switch its DTV operations to that channel. Blackstar, Duhamel Broadcasting Enterprises (Duhamel), and Young Broadcasting Inc. (YBI)¹³² opposed RBC's petition.

326. Ruarch Associates, L.P. Petitions. Ruarch Associates, L.P. (Ruarch), the licensee of LPTV station W28AZ, channel 28, in Winchester-Front Royal, Virginia, filed two petitions for reconsideration. In one petition, Ruarch states that, to avoid co-channel interference with W28AZ, DTV channel 62 should be allotted to noncommercial WFPT-TV in Frederick, Maryland instead of DTV channel 28. Ruarch observes that channel 62 is adjacent to WFPT-TV's NTSC channel 63 and would allow the station to duplex its NTSC and DTV signals on the same antenna, providing it considerable savings in its DTV transition. In its second petition, Ruarch suggests the substitution of DTV channel 38 for the channel 47 DTV allotment provided for WHSV-TV, Harrisonburg, Virginia.

327. The Maryland Public Broadcasting Commission (MPBC), the licensee of public television stations in Maryland, including noncommercial station WFPT-TV, channel 62 in Frederick, opposes Ruarch's petition. MPBC submits that Ruarch's request that we allot channel 62 for WFPT-TV's DTV service reflects the mistaken impression that WFPT-TV operates its

¹³² Young Broadcasting Inc. (YBI) submitted a consolidated opposition to petitions for reconsideration filed by Rapid Broadcasting Company, South Central Communications Corporation, Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network, and Landmark Arts, Inc. See Opposition of Young Broadcasting Inc. to Four Separate Petitions for Reconsideration, filed July 18, 1997.

NTSC service on channel 63, since Ruarch proposes to allot for WFPT-TV's DTV service the same channel that it uses for its NTSC service. MPBC suggests Ruarch is actually seeking substitution of DTV channel 63 for channel 28, as the engineering showing attached to the petition indicates. MPBC submits that relegating WFPT-TV to an out-of-core channel would be a financial catastrophe for the Maryland Public Television (MPT) network. MPBC argues that the proposal would give Ruarch's secondary service station a permanent DTV berth while jeopardizing the future of MPT's full service public station. MPBC argues that Ruarch's petition is not supported by the attached engineering statement that fails to identify an alternative channel for its LPTV station. MPBC observes that Ruarch's assurances regarding coverage and interference of a channel 63 allotment are based on a report of an industry group that did not examine the suitability of possible alternative allotments.

328. South Central Communications Corp. Petition. South Central Communications Corp. (SCCC) is the licensee of 11 LPTV stations and an applicant for two full service TV stations.¹³³ It requests the following modifications to the DTV Table to avoid impact on four of its eleven LPTV stations, as follows: 1) change the DTV allotment for WVUT-TV, Vincennes, Tennessee from channel 52 to 33; 2) change the DTV allotment for WDRB-TV, Louisville, Kentucky from channel 49 to 51; 3) change the DTV allotment for WTNZ-TV, Knoxville, Tennessee from channel 34 to 46; and 4) change the DTV allotment for WNAB-TV, Nashville, Tennessee from channel 23 to 34. SCCC states that MSTV indicates that these changes would not occasion new or additional interference to proposed DTV operations.

329. To the extent that SCCC's petition seeks protection of its LPTV station which is not extended to all similarly-situated LPTV stations, Telemundo opposes it. Independence Television Company (Independence) opposes SCCC's petition and challenges its unsupported assertion that its proposal would create no new interference. Independence asserts that the use of channel 51 by WDRB-TV would raise co-channel spacing concerns with Dayton, Ohio and Hendersonville, Tennessee, as well as adjacent channel concerns with Owenton, Kentucky.

330. Speer Communications Holdings I Limited Partnership (Speer) also opposes SCCC's petition. Speer notes that SCCC has proposed that the DTV allotment for Speer's WNAB-TV be changed from channel 23 to channel 34.¹³⁴ Speer states that the proposed substitution can be effected only if Knoxville's DTV channel 34 is also changed. Moreover, Speer reports that because it uses a directional antenna, it may be unable to maximize its coverage, or even replicate its existing analog coverage, on DTV channel 34. Given these uncertainties, Speer states that the DTV Table should not be changed at this time, particularly at the request of an LPTV station not entitled to a DTV channel. Young Broadcasting Inc. (YBI)

¹³³ SCCC's requests regarding the allotments for WKGB-TV, Bowling Green, Kentucky and WATE-TV, Knoxville, Tennessee are addressed below in the alphabetical section.

¹³⁴ Speer, in its own petition, urges that its DTV allotment be changed but did not propose an alternative channel, citing the unavailability of OET Bulletin No. 69.

opposes SCCC's proposal to change the DTV allotments for six full service television stations, including YBI's Knoxville station, WATE-TV, in order to preserve its existing LPTV operations and protect its application for an NTSC station in Knoxville on channel 26.¹³⁵

331. Sunnycrest Media, Inc. Petition. Sunnycrest Media, Inc. (Sunnycrest), the licensee of low power station WSOT-LP in Marion, Indiana, requests that the assignment of DTV channel 24 to WPTA-TV in Fort Wayne and DTV channel 25 to WRTV-TV in Indianapolis be changed to DTV channels 31 and 34, respectively, to protect its station.

332. Max A. Trevino Petition. Max A. Trevino (Trevino) is the licensee of an LPTV station in Albuquerque, New Mexico. Trevino requests that the DTV channel 17 allotment provided to a full service broadcaster be changed to another channel, such as DTV channel 54, that would not interfere with his LPTV station.

333. Trinity Christian Center of Santa Ana, Inc./Trinity Broadcasting Network Petition. Trinity Christian Center of Santa Ana, Inc./ Trinity Broadcasting Network (Trinity) is the licensee of numerous full service and translator TV stations throughout the country. Trinity seeks reconsideration of the overall DTV allocation scheme and service replication requirement, citing the grounds set forth in Sinclair's petition. Trinity also requests the assignment of different channels for certain full power stations to permit the continued operation of many of its translators. Trinity submitted a list of 56 DTV channel changes, based on a MST/NAB computer study, and asserted that they would not increase interference.

334. Channel 3 of Corpus Christi, Inc. (KIII) conditionally supports the portion of Trinity's petition that seeks the substitution of DTV channel 35 for channel 47 for use by its station KIII-TV, but only if the substitution is not accompanied by widespread changes which would result in poorer service.

335. Several other parties, representing both low power interests and full service broadcasters, submitted oppositions to Trinity's petition. HSN, Inc. states that it objects to the wholesale rearrangement of the DTV Table and asserts that Trinity has not explained why its stations merit this unique treatment. HSN argues that, to the extent that Trinity suggests that the Commission should scrap its DTV allocations in more than 100 communities because Trinity's programming is "diverse and unique," its reasoning is constitutionally suspect and makes no sense as a practical matter. HSN states that the Commission cannot monitor each LPTV or television translator station's programming in order to assure that the programming remains sufficiently "diverse" or "unique" to be worthy of interference protection. HSN supports the systematic protection of LPTV and translator stations from displacement in the DTV transition process but states that Trinity's proposal does not accomplish this goal. Telemundo also states that it cannot support Trinity's petition, since it seeks special protection of one entity's LPTV

¹³⁵ Opposition of Young Broadcasting Inc. to Four Separate Petitions for Reconsideration, filed July 18, 1997.

stations, although it does believe parties should be able to request a change in the DTV allotment of a full power station to preserve a LPTV station if no other operational LPTV or full power outlets are displaced.

336. Alamo Public Telecommunications Council (Alamo), Benedek, Cedar Rapids Television Company (CRTC), Citadel Communications Company, Ltd. (Citadel), Gannett Co., Inc. (Gannett), GOCOM, Heritage Media Corporation (Heritage), Hubbard Broadcasting, Inc. (Hubbard), Sinclair, St. Lawrence Valley Educational Television Council, Inc. (St. Lawrence), Tribune, The University of North Carolina Center for Public Television (UNCTV), Virginia Broadcasting Corp. (Virginia), YBI and other full service broadcasters oppose Trinity's request that we assign different DTV channels to their full service DTV stations, in order to permit the continued operation of many of Trinity's TV translator facilities.

337. For example, Alamo notes that Trinity acknowledges that it was not able to verify that any of its proposed changes would not displace any other authorized LPTV or TV translator facility. Bendek states that Trinity's petition ignores the secondary nature of these facilities. CRTC states that Trinity provides no showing to demonstrate that its proposed alternative DTV channels are viable with respect to replication and interference protection. Citadel observes that the Commission has recognized the significant interference concerns raised by broadcast operation on both channels 3 and 4 and has developed a DTV Allotment Table to avoid such situations. Gannett opposes Trinity's request that we change the DTV allotments for its stations in Austin, Texas; Knoxville, Tennessee; St. Louis, Missouri; and Kingman, Arizona. GOCOM states that Trinity does not even attempt to show what, if any, study it made of how changes in its own translator station channels might be used to resolve its problems. Heritage is concerned that grant of the requested modifications could place Heritage-owned stations at a competitive disadvantage in their respective markets. Hubbard opposes Trinity's petition to the extent that it affects Hubbard's station WNYT-TV in Albany, New York. Hubbard states that Trinity's proposed allotment change for WNYT-TV from DTV channel 15 to channel 60 will impose unnecessary burdens on its station.

338. Sinclair protests that Trinity's proposal to change the DTV allotment for Sinclair's KUPN-TV from channel 20 to channel 29 is based solely on the MSTV/NAB study. St. Lawrence opposes Trinity's proposed substitution of DTV channel 46 for channel 41 for its station WNPE-TV, as the channel 41 allotment is already the highest channel in its market and moving to an even higher channel would impose more costs on its noncommercial station. Tribune states that Trinity's suggested change for its Denver station, KWGN-TV, to DTV channel 68 rather than channel 34, would result in substantial loss of service and would require KWGN to relocate twice. UNCTV states that Trinity's proposed changes would exacerbate the disadvantage that UNCTV already suffers under the current DTV Table by moving its flagship station to one of the channels 60-69 proposed for reallocation to other services. Virginia, the licensee of WVIR-TV in Charlottesville, Virginia, characterizes Trinity's request for 56 changes as an attempt to seek reconsideration of the basic underpinnings of the Commission's DTV decision.

339. In a joint filing, Apple Valley Broadcasting, Inc., KHQ, Incorporated, and Spokane Television (Caucus Parties) indicate that they are members of the Eastern Washington and Northern Idaho DTV Channel Allocation Caucus. They oppose Trinity's petition insofar as it proposes alternative DTV channels for their stations that conflict with the EWNIC's negotiated alternative DTV allotment plan. The Caucus Parties note that the EWNIC's DTV plan was designed to minimize adverse impact on LPTV and TV translator stations and that the EWNIC members intend to continue efforts to accommodate these secondary services. To this end, the Caucus Parties invite Trinity to supplement its petition in order to coordinate its proposed Yakima and Spokane DTV channels with EWNIC's proposal.

340. In a joint opposition filing, the Board of Regents of the University of Wisconsin System (UWS), Maine Public Broadcasting Corporation (MPBC), Northeastern Educational Television of Ohio, Inc. (NETO), Ohio University (OU), and South Carolina Educational Television Commission (SCETV) (collectively, Public TV Licensees) state that Trinity's proposed changes to the DTV Table would significantly impair public television service.

341. Univision Communications Inc. Petition and Supplemental Filing. Univision Communications Inc. (Univision), owns and operates the Univision Network along with both full service and low power television stations.¹³⁶ Univision argues that LPTV stations that provide unique service, such as Spanish-language broadcasting, should be given greater protection against displacement. It predicts that, in the major Hispanic markets where LPTV stations owned by or affiliated with Univision operate, there will be little, if any, chance of channels becoming available. Univision requests that the DTV allotment for KAJW-TV in Tolleson, California be changed from channel 52 to 47 to protect Univision's LPTV station in Tucson, Arizona; that the DTV allotments of KUSI-TV and KSWB-TV in San Diego, California be changed from channels 18 and 19 to channels 43 and 47, respectively; and that the DTV allotment for KOAA-TV in Pueblo, Colorado be changed from channel 27 to 17.

342. In its supplemental filing, Univision revises and provides additional engineering support for its reallocation proposal for the Tucson, Arizona television market. Univision amends its request to substitute DTV channel 53 for KAJW-TV, stating that this change would eliminate interference to KAJW-TV from first adjacent channel operation and would eliminate the need for co-location by that station. According to its engineering statement, the only new interference from KAJW-TV's use of channel 53 would be to NTSC station KASW-TV on taboo channel 61 and would affect only 0.1% and 0.2%, respectively, of the area and population served by KASW-TV. Telemundo supports Univision's position that LPTV stations offering Spanish language are worthy of protection, but it believes that such a policy must be applied uniformly and not just to protect the LPTV stations of a single entity.

¹³⁶ Univision's other specific requests, including a request to preserve the channel of its low power operation in Fort Worth, Texas or provide an alternate channel for its operations, are addressed below in the alphabetical section.

343. W36BM TV-36 Petition. W36BM TV-36 (W36BM), a LPTV station in Augusta, Georgia, requests that it be allowed to maintain its existing use of channel 36. W36BM submits that channels 2, 43, 47, 49, and 56 are not being used in its area.

344. Warwick Communications, Inc. Petition. Warwick Communications, Inc. (WCI) the licensee of a new low power station, K22EH, channel 22 in Longview, Texas,¹³⁷ seeks reconsideration of the allotment of the DTV channel 22 allotment for KETK-TV, channel 56 in Jacksonville, Texas. It states that K22EH currently operates on channel 22 and would have to cease its operations if DTV channel 22 were activated at Jacksonville. WCI indicates that it has invested substantial sums in building, promoting and branding its LPTV outlet, which serves as the primary United Paramount Network (UPN) outlet in the Longview-Tylers-Jacksonville DMA. It states that moving to another channel would undermine its efforts to offer new network competition and provide programming of interest to minorities and local audiences. WCI states that assigning channel 57 to KETK-TV for paired DTV use would not create short-spacing problems, nor would it cause displacement of any licensed LPTV service.

345. Max Television of Tyler L.P. (Max Television), the licensee of KETK-TV, channel 56 in Jacksonville, Texas, opposes WCI's request. It argues that LPTV stations are secondary to full service DTV operations. It states that, if assigned channel 57 for DTV service, it would have to bear the considerable and needless expense of a second move. Max Television also argues that KETK-TV's operation on DTV channel 22 is predicted to cause no interference and would receive interference to only 3 sq. km of its predicted service area, while operation on DTV channel 57 would create 41 sq. km of interference to other stations and would receive interference in 337 sq. km of the predicted service area.

346. As indicated above, using the software developed by CBA, we have modified the DTV Table in a limited number of cases to avoid co-channel conflicts with one or more low power stations. We have also provided a number of rule changes for low power stations to minimize the impact of DTV on their operations and to provide them with additional flexibility to find replacement channels when necessary. At the same time, we have reaffirmed our initial decision with regard to their secondary allocation status. Low power stations and TV translators remain secondary to both the analog and the digital operations of full service broadcasters. Apart from these adjustments, we have decided to generally decline to grant requests by low power interests to change the DTV allotments of full power stations in order to protect their low power operations. For these reasons, we are denying the preceding requests that we modify the DTV Table in order to protect existing LPTV and TV translator stations. With respect to those petitions that suggest that a full power station may be moved to an alternative channel, we note that, if spectrum is indeed available, the petitioner may be able to switch its own low power operations to an adequate replacement channel, given the rule changes we have adopted, or it may attempt to obtain the agreement of the licensee of the full power station to request such a

¹³⁷ WCI also filed a separate petition with regard to its full power station KFXK-TV, which we address below in the alphabetical section.

channel change. With regard to Trinity's proposed substitution of DTV channel 35 for channel 47 for use by station KIII-TV, to which KIII conditionally consented, we have determined that this change would cause interference to other full power stations and should not be granted.

347. Several petitions were filed by low power interests seeking to protect their operations which raised certain additional issues. We address these petitions below.

348. KXII-TV Broadcasters, Inc. Petition. KXII-TV Broadcasters, Inc. (KXII) is the licensee of KXII-TV, channel 12 in Sherman, Texas, and TV translator K02EQ in Paris, Texas. KXII's full power station in Sherman was provided DTV channel 20 in the DTV Table. KXII states that Paris is a "white area" that is unserved by any over-the-air television stations but has been served by KXII-TV/K02EQ for the last 27 years. KXII requests that we allot channel 36 to Paris for DTV service and issue KXII an "Initial Modification License for DTV," thereby modifying the license of K02EQ to specify operation on channel 36. In its opposition, Fox submits that providing DTV channel 36 to KXII for its Paris translator could cause interference to Fox's KDFW-TV channel 35 DTV operations in Dallas, Texas. Fox also questions the advisability of using a potential full service DTV allotment for low power DTV operations, in light of the shortage of spectrum for DTV in much of the country.

349. In the Sixth Report and Order, we retained the secondary status of low power stations, and we indicated that the provision of DTV service by low power stations would be addressed in a future proceeding. To the extent that KXII requests that a new allotment be established for Paris, such a request is beyond the scope of this proceeding. To the extent that KXII requests that we allot its low power station, K02EQ, a DTV channel at this time, we have decided that only certain full service broadcasters are eligible for an initial DTV channel. KXII has presented no information that was not considered previously. Accordingly, KXII's petition for reconsideration is denied.

350. Los Cerezos Television Company Petition. Los Cerezos Television Company (Los Cerezos), the licensee of LPTV station WMDO-LP, channel 48 in Washington, D.C., states that its station is the only source of local television news and information programming for Washington's Spanish-speaking community. Los Cerezos expresses the concern that because WRC-TV, Washington, D.C. has committed to begin broadcasting on DTV channel 48 by November 1998, WMDO-LP will be among the first LPTV stations to be displaced. Los Cerezos submits that its consulting engineers have determined that no alternative channels are available for WMDO-LP's use under the current rules. Los Cerezos submits that giving DTV channel 69 to WRC-TV would allow WMDO-LP to remain on channel 48.

351. As stated above, we do not believe that requiring a full service broadcaster to change channels, and in this case incur the added expense of a second move, in order to protect a secondary low power operation is appropriate. Furthermore, as stated previously, we find that increased use of channels 60-69 would be inconsistent with our statutory mandate under Section 337(a) of the Balanced Budget Act of 1997. We recognize the situation faced by Los Cerezos

with regard to its LPTV station WMDO-LP. We note that we have amended our rules to provide displaced LPTV stations with a preference over pending low power applications, and that this change may provide Los Cerezos with some relief.

352. Pappas Stations Partnership and Valley Public Television, Inc. Petition. Pappas Stations Partnership (Pappas) is the licensee of LPTV station K40DQ, channel 40 in Tulare, California. Valley Public Television, Inc. (Valley) is the licensee of KVPT-TV, channel 18 in Fresno, California. In a joint filing, Pappas and Valley note that KVPT-TV has been assigned DTV channel 40. They state that K40DQ's proximity to KVPT-TV would force the LPTV station to cease operation if KVPT-TV activates DTV operation on channel 40. Valley has consented to use channel 32 for KVPT-TV's DTV service instead of channel 40, so that K40DQ could continue to operate on channel 40. Pappas and Valley ask us to allot DTV channel 32 or another channel for KVPT-TV instead of channel 40. They submit that the MSTV/NAB list of alternative DTV channels indicates that the change would not displace any licensed or authorized LPTV or TV translator facilities and would not affect the DTV facilities of KVPT-TV or other stations. They did not submit a supplemental filing.

353. Our analysis indicates that use of channel 32 by KVPT-TV would impact and cause additional interference to other broadcast stations. We also find that there are no available channels that would not impact other full or low power broadcast stations. Pappas and Valley's request that the DTV allotment for KVPT-TV be changed is therefore denied.

354. Siete Grande Television, Inc. Petition. Siete Grande Television, Inc. (SGT), the licensee of WSTE-TV in Ponce, Puerto Rico, requests that service area replication take into account WSTE-TV's unique licensed facilities, which include four licensed booster stations. SGT indicates that, because of the extraordinary terrain in WSTE-TV's service area, it was granted authority to operate with multiple transmitters. It states that WSTE-TV's current four-site multi-transmitter booster facilities operate from Arecibo, Mayaguez, San Juan, and Ponce, Puerto Rico. SGT submits that the Sixth Report and Order did not consider this unique technical setup for overcoming terrain factors and that the DTV Table therefore fails to address signal replication of WSTE-TV's full coverage area, which is achieved through use of booster facilities. It requests that we take into account WSTE-TV's multi-site transmitting system in service area matching calculations. It states that, in doing so, we should assign replicating DTV channels to each of the station's boosters and that this could be accomplished because of the terrain shielding and additional losses that characterize the area.

355. As indicated above, we are not protecting or assigning initial DTV channels to secondary low power stations, including TV translator and booster stations. We recognize that the mountainous terrain characteristics of this region of Puerto Rico does provide some terrain shielding of television signals. At the same time, we believe that these unique terrain characteristics should permit broadcasters, such as SGI, to implement future booster stations, if desired. We believe that coverage enhancements through the use of secondary low power stations are best addressed through local engineering solutions rather than as part of the DTV

allotment process. We therefore are denying SGI's request.

356. Skinner Broadcasting, Inc. Petition and Supplemental Filing. Skinner Broadcasting, Inc. (Skinner), the licensee of TV translator W27AQ, channel 27 in Ft. Lauderdale, Florida, states that W27AQ will be displaced by the channel 27 and 28 DTV allotments for WXEL-TV and WFLX-TV in West Palm Beach. It states that an engineering study of the Ft. Lauderdale area indicates that, under the channel configuration adopted in the Sixth Report and Order, no other channel is available for W27AQ, and that even the alternative DTV Table prepared by CBA could not provide displacement relief. As a remedy, Skinner suggests that we either award Skinner a Class-A FM radio license to serve as a substitute for taking channel 27 or compensate Skinner financially. In its supplemental filing, Skinner offers a third option, a "seniority" policy whereby the last licensed LPTV or TV translator facility in the market would be the first to be displaced or lose its channel to make room for full power DTV channels. Skinner asks that we amend the DTV Table to substitute channel 41 for channel 28 and channel 58 for channel 27, so that W27AQ is spared while two other LPTV stations licensed later (W41BF and W58BU), are displaced.

357. South Florida Public Telecommunications, Inc. (SFPT), the licensee of public television station WXEL-TV in West Palm Beach, Florida, states that the licensee of a secondary facility cannot claim unfair treatment when it is displaced to accommodate a full service station. SFPT objects to either the change of its assigned DTV channel 27 to a less desirable channel or the imposition of a requirement to reimburse Skinner.

358. For the reasons stated above, Skinner's request that we modify the DTV Table to protect its low power operation is denied. We also deny Skinner's request that it receive a Class A FM radio station license or compensation. Skinner's request for a Class A FM radio station license is beyond the scope of this proceeding. Moreover, as indicated above, we are not requiring full service broadcasters to compensate low power stations for displacement. With regard to Skinner's request that we adopt a seniority policy for LPTV displacement, we find that such a request conflicts with the secondary status of low power television and would not result in providing the best channels for full service DTV operations.

359. Venture Technologies Group Petition and Supplemental Filing. Venture Technologies Group (VenTech) states that the DTV Table should have accounted for an NTSC station on channel 38 in Santa Barbara, California and therefore channel 38 should not have been used for DTV anywhere in Southern California. VenTech submits a new DTV plan for the southern California region. It claims that this plan is consistent with allotments for Mexico and would allow for the preservation of LPTV stations operating in the Southern California area on UHF channel 38. VenTech therefore requests that we reconsider the DTV Table for Southern California and instead use its proposed Table submitted in response to the Sixth Further Notice of Proposed Rule Making. VenTech's supplemental filing includes a new proposal for the Southern California-Baja, Mexico area. It submits that this proposal allows for greater spectrum

efficiency. It further states that channel 38 would no longer be used for DTV in the Los Angeles region, thus preserving a viewable signal on NTSC channel 38 in Santa Barbara and five LPTV stations operating on channel 38 in Southern California.

360. A number of parties representing full power stations in the southern California area oppose VenTech's requests. Channel 51, for example, states that VenTech proposal would result in it being assigned a channel not in the core spectrum. Similarly, the Los Angeles Unified School District (LAUSD) opposes VenTech's proposal that LAUSD use channel 69 rather than channel 41 for its DTV operation. LAUSD states that channel 69 is virtually unusable. It states that channel 69 is not in the core spectrum and that use of channel 69 would require eliminating interference to adjacent land mobile users a virtually impossible task. Golden Orange also opposes VenTech's filings. It states that VenTech's proposed DTV allocations for its station KDOC-TV are markedly less satisfactory than the DTV channel assigned by the Commission.

361. As indicated above, except in certain limited circumstances, we are not making changes in the DTV Table to protect secondary low power operations. We note that Ventech's proposed changes would impact other full power stations. Accordingly, we are denying VenTech's request that we adopt its proposed changes for the southern California region. With regard to VenTech's comment that the DTV Table should have taken the use of channel 38 into account in Santa Barbara, as noted above in response to Coast TV's petition, the DTV table did take into account the use of channel 38 in Santa Barbara.

D. Petitions Addressing Service Replication and Maximization Issues

362. A number of petitions for reconsideration focus on issues of service replication and maximization. Below, we address the requests of several petitioners that primarily seek increases in the power level and/or antenna height provided for their stations in the DTV Table of Allotments.

363. Malrite Communications Group, Inc. Petition. Malrite Communications Group, Inc. (Malrite) argues that we provided unacceptably low power to certain DTV channels placed on VHF frequencies, with the concomitant result that the affected facilities will serve less than 95% of their existing service areas. Malrite states that the assignment of DTV channel 10 at a power level of 3.5 kW to its WOIO-TV in Shaker Heights, Ohio will allow only 90% replication of the station's existing grade B coverage. It suggests that we grant WOIO-TV interim experimental operating authority so that it may assess the appropriateness of its channel assignment. Malrite did not submit a supplemental filing.

364. Harish Puri Supplemental Filing. Harish Puri (Puri) is the permittee of WJNW-TV, NTSC channel 57 in Janesville, Wisconsin. Puri was allotted DTV channel 32 with 75.9 kW ERP. In a supplemental filing, Puri states that the power level provided WJNW-TV will not be

sufficient to replicate its authorized Grade B contour.¹³⁸ Puri's attached engineering statement seeks the same power (363.9 kW) as WISC-TV, the largest powered station in the Madison DMA. The engineering statement indicates that, while additional interference may result, the amount appears to fall within the acceptable range of the DTV allotment process.

365. Sullivan Broadcasting Company Supplemental Filing. In a supplemental filing, Sullivan Broadcasting Company (Sullivan) states its concerns with regard to the UHF power disparity and requests that we increase the DTV power and/or antenna height for a number of its stations.¹³⁹ It requests the following specific DTV power increases: for WTAT-TV in Charleston, South Carolina, from 315.1 kW to at least 403 kW; for WXLV-TV, in Winston-Salem, North Carolina, from 143.2 kW to 316 kW; for WMSN-TV in Madison, Wisconsin, from 3.2 kW to at least 8.2 kW; for WUTV-TV in Buffalo, New York, from 50 kW to 500 kW; for WUHF-TV, in Rochester, New York, from 50 kW to 500 kW; for WZTV-TV in Nashville, Tennessee, from 116.6 kW to 500 kW; and for WVAH-TV in Charleston, West Virginia, from 68.3 kW to at least 460 kW. Sullivan attaches technical exhibits to show that such increases would comport with its *de minimis* interference standard and would cause little or no additional interference to other stations and to provide technical details on proposed directional antenna patterns. It requests that we act on these requests in a time frame that will enable the formulation of a business plan appropriate to each station.

366. Weigel Broadcasting Co. Petition. Weigel Broadcasting Co. (Weigel) is the licensee of WCI-TV, channel 26 in Chicago, Illinois, and WDJT-TV, channel 58 in Milwaukee, Wisconsin. Weigel states that the power levels assigned for the DTV operations of its stations (67.5 kW ERP for WCI-TV and 133.7 kW ERP for WDJT-TV) are substantially below the levels assigned to all of the other stations in the Chicago and Milwaukee markets. It states that we have correctly recognized that DTV power levels must be set not only to achieve replication, but also to ensure "that all stations are able to provide DTV service competitively within their respective markets." Weigel states that, unless its stations are allowed higher power levels, they will be competitively disadvantaged. It requests that we assign WCI-TV a maximum ERP of 208.7 kW and WDJT-TV a maximum ERP of 1,000 kW, the power levels assigned to competing stations in their respective markets. If this is not possible, Weigel requests power levels that are roughly comparable to the power levels awarded to their competitors.

367. Western New York Public Broadcasting Association Petition and Supplemental Filing. Western New York Public Broadcasting Association (WNYPBA) is the licensee of two noncommercial public television stations in Buffalo, New York: WNED-TV, NTSC channel 17, and WNEQ-TV, NTSC channel 23. WNYPBA submits that because several other Buffalo

¹³⁸ Puri was a party to the "Joint Petition of Licensees" filed by Entravision Communications Company, L.L.C., Paxson Communications Corporation, Univision Communications, Inc., *et al.*

¹³⁹ Sullivan did not file an individual petition but was party to a joint filing addressing general DTV allotment matters.

television stations have been allotted DTV facilities with a power of 1 MW, its stations must be authorized to maximize their DTV facilities. It states that our plan allows WNED-TV to replicate its coverage but grants other, larger stations in the market substantial coverage increases and thus aggravates an already noncompetitive situation. WNYPBA submits that increases in coverage for its stations do not appear feasible under our DTV interference rules, as an increase in power for either one would cause interference to and receive interference from other stations. WNYPBA makes an additional request that we confirm the protection of its pending application for a new noncommercial station on reserved channel 46 in Jamestown, New York with an in-core DTV allotment.

368. Westwind Communications, L.L.C. Petition. Westwind Communications, L.L.C. (Westwind) is the licensee of KBAK-TV, channel 29 in Bakersfield, California. KBAK-TV was allotted DTV channel 33, and its power output was limited to 67.1 kW. In its petition, Westwind seeks a power increase to 68.1 kW, stating that this change would not cause any additional interference. Alternatively, it requests a different DTV channel, if such a channel proves superior to channel 33. Westwind also states that the Commission's methodology assumes a directional antenna pattern without regard to whether the NTSC signal is directional and without regard to the azimuth pattern limits of the licensee's NTSC signal. Thus, according to Westwind, a nondirectional antenna may not be usable at the full power authorized by the Commission, and the FCC's assumed DTV pattern may differ from the NTSC pattern, producing a disparity in service area. In the case of KBAK-TV, Westwind states that a directional antenna that meets the presently authorized NTSC azimuth pattern limits, instead of the assumed replication pattern, could be operated at 68.1 kW, rather than the 67.1 kW authorized in the DTV Table. Westwind did not submit a supplemental filing.

369. As indicated above, we have addressed the issue of UHF power in a manner in which we believe will lessen the disparity between existing UHF and VHF stations with DTV that will operate on UHF frequencies. As we have also noted, service replication of DTV allotments is based on the facilities licensed as of April 3, 1997. We find that the power levels and antenna heights provided in the DTV Table of Allotments for the stations at issue -- Malrite's WOIO-TV; Puri's WJNW-TV; Sullivan's WTAT-TV, WXLV-TV, WMSN-TV, WUTV-TV, WUHF-TV, WZTV-TV, and WVAH-TV; Weigel's WCI-TV and WDJT-TV; WNYPBA's WNED-TV and WNEQ-TV; and Westwind's KBAK-TV -- are appropriate for service replication of their respective licensed facilities as of April 3, 1997. With regard to the requests of Malrite, Puri, Sullivan, Weigel, WNYPBA and Westwind for power increases for their stations, we are not providing for maximization of DTV station facilities at this time. We have adopted specific provisions in our rules to allow licensees to request an increase in their DTV facilities and believe that considering maximization requests in this proceeding would unfairly disadvantage parties that have expected such maximization requests to be dealt with under the rules. Accordingly, the petitions for reconsideration filed by Malrite, Puri, Sullivan,

Weigel, and WNYPBA¹⁴⁰ are denied. To the extent that Malrite wishes to obtain an experimental license for DTV operation, it may request an experimental license under our rules for such operation. In addition, these petitioners may submit requests for increased power and/or antenna height for their stations under the procedures for maximization of DTV facilities contained in the rules.

370. Several parties filed petitions in which they requested power increases and/or recognition, for service replication purposes, of applications for modification of their NTSC stations that were pending as of April 3, 1997. Below, we summarize and respond to many of these petitions.

371. Educational Television Association of Metropolitan Cleveland Petition and Supplemental Filing. Educational Television Association of Metropolitan Cleveland (ETAMC) is the licensee of WVIZ-TV, NTSC channel 25 in Cleveland, Ohio. ETAMC requests reconsideration of the channel 26 DTV assignment made to WVIZ-TV to take into account its proposed modification application. It states that on January 1, 1996, it filed a minor modification to increase the power to 5 MW. It states that its preliminary review of the DTV Table indicates that this modification was not considered in the assignment of DTV channel 26 to WVIZ-TV. It states that WVIZ-TV was allotted a maximum power of 64 kW, while other stations in its market were allotted 897 and 1000 kW. It further states that it appears that increasing power on its assigned DTV channel may be precluded because of interference. It therefore requests that the engineering database be corrected to include the technical parameters proposed to increase power of WVIZ-TV and that additional time be provided to supplement the petition and offer alternative solutions. In its supplemental filing, ETAMC submits that a study conducted by its engineering consultant finds that increasing the power of the ETAMC's DTV operation would create new interference. It also indicates that a study was conducted regarding a possible alternative channel, but that this study could not be completed because of uncertainties about protection requirements for Canadian facilities.

372. Family Stations of New Jersey, Inc. Petition. Family Stations of New Jersey, Inc. (Family), the licensee of WFME-TV, channel 66 in West Milford, New Jersey, objects to the 50 kW limit on power specified for its channel 29 DTV allotment. Family states that it has a pending valid application for a minor modification of a construction permit to increase its effective radiated power to 5,000 kW. It argues that it has a reasonable expectation to duplicate this 5,000 kW facility with its DTV service and that the 50 kW facility adopted in the Sixth Report and Order is not a reasonable substitute. It states that it has spent many years and a great deal of money to overcome obstacles in order to activate WFME-TV, including severe limitations on acceptable antenna site locations in northern New Jersey. Family states that when it originally constructed the station, it constructed a modest facility so that it could begin

¹⁴⁰ In response to WNYPBA's additional request, we note that one of the goals in developing the DTV allotments was to provide for replication of stations' existing service areas, and that because the channel 46 allotment in Jamestown was in the freeze area, it was not protected.

operating as soon as it found an acceptable antenna site. It submits that its intention from the beginning was to modify WFME-TV's facilities and operate the station at full power as originally approved by the Commission. Family states that it filed its application for modification of its construction permit on June 12, 1996, almost nine months before we released the Sixth Report and Order. It argues that had we acted on its application with the time frame we typically act on such applications, its upgraded facilities would have been protected when we adopted the DTV Table. Family therefore requests that we modify the DTV Table in such a way that will permit it to operate WFME-TV in a manner that duplicates the service proposed in its pending application. It did not submit a supplemental filing.

373. Pegasus Communication Corporation Petition and Supplemental Filing. Pegasus Communication Corporation (Pegasus) states that its station WILF-TV in Williamsport, Pennsylvania was allotted DTV channel 29 and its station WWLF-TV in Hazleton, Pennsylvania was allotted DTV channel 9. It states, however, that both allotments were made to the transmitter sites specified in its current licenses and not to the sites specified in its granted construction permits (CPs). It notes that these CP applications were on file since 1996 and that grant of these applications were delayed beyond the April 3, 1997, cut-off date through no fault of its own. The CPs were granted on April 21, 1997. In its supplemental filing, Pegasus again requests that the new sites for its stations be considered for DTV purposes. It submits an engineering statement that indicates that the DTV coverage for WWLF-TV would be significantly greater than from the site specified in the Sixth Report and Order. Pegasus states that, in granting the construction permit, we determined that operation from the new site, even though it required waivers of the spacing rules with respect to other stations, was in the public interest because it would allow service to a substantially greater population and equalized WWLF-TV with other network affiliates in the Wilkes-Barre/Scranton market. It argues that for these reasons, the reference coordinates for DTV allotment for this station should be at the new site, which is the same site to be used by other stations in that market, rather than the more isolated site up to now used by WWLF-TV.

374. Sainte Partners II, L.P. Petition. Sainte Partners II, L.P. (Sainte II) is the licensee of three television stations in California: KBVU-TV in Eureka; KCVU-TV in Paradise; and KNSO-TV in Merced. Sainte II states that KBVU-TV's assigned power level of 50 kW should be reconsidered because of adjacent channel considerations and because it does not take into account its pending application to increase NTSC power. With regard to KCVU-TV, Sainte II states that its pending application to increase power to 5,000 kW was not taken into account. With regard to KNSO-TV, it states that it supports the comments of Sinclair Broadcasting and seeks maximum DTV power for this station. Finally, Sainte II proposes liberal opportunities for it and other licensees to supplement their comments after OET Bulletin No. 69 is released. Sainte II did not submit a supplemental filing.

375. Mike Simons Petition. Mike Simons (Simons) is the licensee of KTAQ-TV, channel 47 in Greenville, Texas. In his petition, Simons seeks reconsideration of the HAAT and power authorized for KTAQ-TV's channel 46 DTV allotment. He argues that the station has had

a modification application seeking an increase in antenna height and transmitter power pending since July 10, 1996. He states that this application was later amended on December 13, 1996 to reduce the requested height to accommodate the FAA. He states that assuming normal processing that his application should have been granted in time to be considered in the Sixth Report and Order. Simons argues that he should not be penalized due to FCC processing delays. Simons requests that he be allocated an increase in power and HAAT to reflect his pending modification application, or, at a minimum, that he be allocated DTV facilities which would provide a reasonable degree of market competitiveness.

376. T.V. 17 Unlimited, Inc. Petition and Supplemental Filing. T.V. 17 Unlimited, Inc. (TV 17), the licensee of WXMI-TV, channel 17 in Grand Rapids, Michigan, submits that in July, 1996, it filed an application for a construction permit to increase the station's ERP to 5,000 kW, which was accepted for filing on August 26, 1996 but remains pending. TV 17 states the power and antenna parameters for the channel 19 DTV allotment provided for WXMI-TV are based on the station's existing facilities, rather than the improved station for which it sought authority almost a year ago. It requests that, given the clear, long-standing intention of WXMI-TV to improve its service, we reconsider our decision and provide for replication of the station's service area as proposed on the modification application.

377. WMTW Holdings Inc. Petition and Supplemental Filing. WMTW Holdings Inc. (WMTW) is the licensee of WMTW-TV, NTSC channel 8 in Poland Springs, Maine, which received DTV channel 46. WMTW requests reconsideration to the extent that the DTV Table did not incorporate its proposed facility modifications. It states that on April 22, 1996, it filed a minor modification to relocate its transmitter from Mount Washington, New Hampshire to a site closer to Portland, Maine. On June 5, 1997, it amended its application to specify an alternative site. WMTW states that its pending modification application filed prior to July 25, 1996 should have been taken into account in the DTV allotment process. It also argues that factors beyond its control militate in favor of designating an alternative site for construction of WMTW-TV's digital transmission facilities. It asserts that aesthetic and environmental concerns would impede its ability to build at its existing site. In addition, it states that Dartmouth has sold adjoining properties and has granted an option to purchase the parcel, on which WMTW-TV's current facilities are located, to the State of Maine in 2010. In its supplemental filing, WMTW submits that a recent technical study conducted by Denny & Associates, in accordance with the methods of OET Bulletin No. 69, indicates that the new transmitter site may marginally increase the area that might receive interference from WMTW-TV's DTV operations on channel 46 but will reduce the total number of people projected to experience interference by almost 50,000. It urges us to revise WMTW-TV's facilities specifications to reflect the pending application that would relocate WMTW-TV's NTSC channel 8 service to a new site at 43° 50' 33" N and 70° 45' 22" W.

378. As we have indicated above, service replication of DTV allotments is based on the facilities licensed as of April 3, 1997, the date of adoption of the Sixth Report and Order. Requests for modification of NTSC facilities that were pending on that date are not taken into account in the DTV allotment process for the purposes of service replication. We find that the

power level and antenna height provided for the stations of ETAMC, Family, Pegasus, Sainte II, Simon, TV 17, and WMTW in the DTV Table of Allotments are appropriate for replication of the service of their licensed facilities as of that date. With regard to Sainte II's KBVU-TV and Simon's KTAQ-TV, we note that these stations were each assigned a maximum power of 50 kW. In both cases, 50 kW is the minimum power assigned to UHF stations, and not the power required for service replication; thus, the DTV service area and population served by KBVU-TV and KTAQ-TV in fact may be significantly greater than their existing NTSC service area and population served.¹⁴¹ As noted previously, we have adopted specific provisions in our rules to allow licensees to seek to increase or alter their DTV facilities and believe that considering maximization and modification requests in this proceeding would unfairly disadvantage parties that have expected such requests to be dealt with under the rules. Accordingly, we are making no changes in the DTV allotments with regard to the stations of ETAMC, Family, Pegasus, Sainte II, Simon, TV 17, and WMTW, and their petitions for reconsideration are denied. We note, however, that ETAMC, Family, Pegasus, Sainte II, Simon, TV 17, and WMTW may submit future requests regarding power, antenna height, or transmitter site changes under the procedures for maximization and modification of DTV facilities contained in the rules. In addition, while we are denying WMTW's request that we modify its DTV allotment to incorporate its pending modification, we note that its proposed changes may be acceptable under the *de minimis* interference standard adopted herein.

379. Some petitions primarily sought to change the transmitter sites of their stations. We address three below.

380. HSN, Inc. Petition. HSN, Inc. (HSNI) requests that the DTV Table be modified to permit adequate service by its station, WHSP-TV, NTSC channel 65 in Vineland, New Jersey. It states that this station operates about 30 miles outside of Philadelphia and will be impacted by interference to a much greater extent than the Commission has estimated. It asserts that, although we assumed the use of directional reception equipment, it is likely that most viewers will use nondirectional equipment. It suggests three ways to resolve this problem: 1) reduce power for the adjacent channel 64 DTV operation of WPVI-TV, Philadelphia, Pennsylvania from 1000 kW to 50-100 kW; 2) change the DTV channel allotment for WPVI-TV; or 3) permit the relocation of WHSP-TV to the Philadelphia antenna farm. HSNI states that the third option would resolve its interference concerns without a reduction in power or change in channels. It states that, to move to the antenna farm, WHSP-TV would require a waiver of the NTSC short-spacing limitations with respect to WTVE-TV, Reading, Pennsylvania. HSNI states that its engineering analysis indicates that WHSP-TV should be able to demonstrate that such short-spaced operation, using a directional antenna and taking into account terrain shielding, would not

¹⁴¹ For example, MSTV estimates that KBVU's service area will increase from 5,900 to 13,429 sq. km. and that its population reach will increase from 86,000 to 98,000. See MSTV's *Ex Parte* Filing, Exhibit 1B, FCC DTV Table with Corrected Coverage and Interference Figures. Similarly, MSTV estimates that KTAQ's service area will increase from 2579 to 11031 sq. km. and that the population served by that station will increase from 70,000 to 847,000 people. *Id.*